

Deficiency Progress Report

CUPA: Butte County Environmental Health
Evaluation Date: November 14 and 15, 2007
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Date update 1 was submitted: February 27, 2008

Deficiencies corrected with update 1: Deficiencies 3, 6, 7, 9, 10, 13, 14, and 15.

Date update 2 was submitted: September 26, 2008

Deficiencies corrected with update 2: Deficiencies 2, annual review of Inspection and Enforcement Plan; 5, neither regulating nor properly exempting agricultural handlers subject to the business plan program; 12, documentation of how the CUPA expends at least 5% of its hazardous waste related resources to the oversight of Universal Waste handlers.

Status of Deficiencies in Progress of being Corrected

2. Deficiency: The CUPA is not annually reviewing their Inspection and Enforcement Plan.

Preliminary Corrective Action: By September 30, 2008, the CUPA shall submit a summary of their review of their Inspection and Enforcement Plan to Cal/EPA.

CUPA Corrective Action, (Update 1): In progress. We will review our Inspection and Enforcement Plan as soon as possible, and submit a summary of findings to Cal/EPA prior to September 30, 2008. We expect that our Inspection and Enforcement Plan will need to be updated to address facility inventory expansion, addition of the Aboveground Petroleum Storage Tank program element, and changes in Chapter 6.95 of the California Health and Safety Code which establish specific administrative penalties for Hazardous Materials Response Plan program violations.

Cal/EPA Response: Cal/EPA accepts the progress Butte County is making towards correcting this deficiency. Cal/EPA feels the CUPA is on track for meeting the September 30, 2008 deadline for reviewing their Inspection and Enforcement Plan.

CUPA Corrective Action, (Update 2): Complete. We have reviewed our Inspection and Enforcement plan, and have prepared a draft revised Plan. Revisions in the draft Plan include:

- Updated facility demographic information table, including current facility inventories.
- Revised language for Administrative Enforcement Order Program, including reference to the "Guidance for Administrative Enforcement Order and Hearing Procedures, February 2007".
- Simplification of the "Program Specific Enforcement Citations" subsection. This section was found to have typos which could cause confusion regarding applicability of specific statutory references.

Cal/EPA Response: Cal/EPA accepts the progress Butte County has made and considers this deficiency corrected.

4. Deficiency: The CUPA has not established some of the administrative procedures.

Preliminary Corrective Action: By November 15, 2008, the CUPA will submit copies of the administrative procedures required under Title 27, section 15180(e) to Cal/EPA.

CUPA Corrective Action, (Update 1): In progress. Prior to November 15, 2008, we will submit administrative procedures for the areas identified in the Evaluation Summary of Findings:

Public Participation
Records Maintenance
Information requests and methods to prevent the release of confidential and trade secret information

Cal/EPA Response: Cal/EPA feels the CUPA is on track for meeting the November 15, 2008 deadline for establishing the above mentioned administrative procedures.

CUPA Corrective Action, (Update 2): In progress. Prior to November 15, 2008, we will submit the above mentioned administrative procedures.

Cal/EPA Response: Cal/EPA acknowledges the progress the CUPA has made for meeting the November 15, 2008 deadline for establishing the above mentioned administrative procedures. Please provide a copy of the required administrative procedures to Cal/EPA in your next progress report.

5. Deficiency: The CUPA is not implementing and enforcing the requirements of the business plan program for all handlers subject to the program. Specifically, the CUPA is neither regulating nor properly exempting agricultural handlers subject to the business plan program.

Preliminary Corrective Action: By May 15, 2008, the CUPA must submit an action plan, with projected timeline, to either regulate all farms subject to the business plan program or to properly exempt these businesses under HSC 25503.5(c)(2), (3), (4), or (5).

CUPA Corrective Action, (Update 1): In progress. Butte County Environmental Health will submit an action plan to address farm business plans, with projected timeline, by May 15, 2008. We have met with the Butte County Farm Bureau and representatives of a neighboring CUPA, to investigate the option of developing streamlined business plan filing procedures for farms. We plan to continue this approach through development of a draft local ordinance for reporting of farm chemical inventories, and provide a simplified process equivalent to regulation under Chapter 6.95. If adopted by the Butte County Board of Supervisors, this proposed ordinance could allow exemption of specific materials or businesses pursuant to HSC 25503.5(c)(2), (3), (4), or (5).

Cal/EPA and OES Response: Cal/EPA and OES accept the progress being made to correct this deficiency and feel the CUPA is on track for meeting the May 15, 2008 deadline for submitting an action plan.

CUPA Corrective Action, (Update 2): In progress. We have developed a plan and implementation schedule for implementation of the business plan program at farms, see enclosed document "Butte County Modified Business Plan for Farms, see enclosure. As noted above, the plan includes development of a local ordinance to regulate several hazardous materials commonly handled at agricultural facilities, and exemption of these same materials from the business plan program.

Cal/EPA and OES Response: The CUPA has implemented a plan to provide an exemption by local ordinance for substances commonly held by farmers, pursuant to HSC 25503.5(c)(2). OES considers this deficiency corrected, and requests that the CUPA forward, through CalEPA, a copy of the final ordinance once adopted.

8. Deficiency: The CUPA has not fully implemented a single, unified Inspection and Enforcement Program and Plan.

Preliminary Corrective Action: The CUPA shall immediately begin fully implementing a single, unified Inspection and Enforcement Program and Plan. In addition, by November 15, 2008, the CUPA will update their inspection and enforcement guidance document to address this.

CUPA Corrective Action, (Update 1): In progress. We have conducted a training session with all CUPA staff to fully implement our current Inspection and Enforcement Program Plan (IEPP), as contained in our final CUPA application dated December 2004. We recognize that our IEPP must be reviewed and updated as

necessary. We will complete this project as soon as possible, before November 15, 2008.

Cal/EPA and DTSC Response: Cal/EPA and DTSC appreciate the progress being made to correct this deficiency and feel the CUPA is on track for meeting the November 15, 2008 deadline for reviewing and updating their Inspection and Enforcement guidance document.

CUPA Corrective Action, (Update 2): In progress. As noted above, we have prepared a draft updated IEPP. We will finalize and implement the updated IEPP by November 15, 2008.

Cal/EPA and DTSC Response: Cal/EPA and DTSC look forward to the implementation of the finalized Inspection and Enforcement Program Plan by November 15, 2008.

- 11. Deficiency:** The CUPA is unable to document that all facilities that have received a notice to comply citing violations have returned to compliance within 30 days of notification.

Preliminary Corrective Action: By May 15, 2008, the CUPA will develop a procedure for tracking violations, and return-to-compliance. On February 15, 2008, the corrective action was revised to: By May 15, 2008, the CUPA will develop and begin implementing a procedure for tracking violations and return-to-compliance to ensure that facilities who are cited for violations during inspections have returned to compliance by: 1) submitting a Return to Compliance Certification, 2) by the CUPA following up with the facility beyond during the next routine inspection, or 3) documenting the re-inspection of the facility

CUPA Corrective Action, (Update 1): In progress. As an interim measure, CUPA staff will utilize their Microsoft Outlook Calendar to track reinsertion/return to compliance dates. Prior to May 15, 2008 we will update our SWEEPS activity codes and procedures to track reinspection dates and return to compliance.

Cal/EPA and DTSC Response: Cal/EPA and DTSC accept the interim measure to correct this deficiency and feel the CUPA is on track for meeting the May 15, 2008 deadline.

CUPA Corrective Action, (Update 2): In progress. We plan to utilize the SWEEPS data management system to report CUPA program violations, reinspection/return to compliance. We will need to establish fairly a fairly extensive group of hazardous waste program violation codes to fully utilize the SWEEPS data management system for compliance tracking. We will complete this effort and fully implement the improved tracking system by November 15, 2008. In the interim staff

will continue to utilize Microsoft Outlook to track reinspection/return to compliance dates.

Cal/EPA and DTSC Response: Cal/EPA and DTSC appreciate the CUPA's effort to establish a complete violation code and return to compliance tracking system and look forward to its implementation by November 15, 2008.

- 12. Deficiency:** The CUPA is inspecting for universal waste when conducting other regulatory activities. The CUPA is required to formally document how it expends 5% of its hazardous waste resources to the oversight of Universal Waste handlers and silver-only generators.

Preliminary Corrective Action: By May 15, 2008 the CUPA will document how it expends at least 5% of its hazardous waste related resources to the oversight of Universal Waste handlers.

CUPA Corrective Action, (Update 1): In progress. We have updated our facility inspection form to include universal waste inspection categories. Prior to May 15, 2008 we will update our SWEEPS activity tracking system to include program element codes to track Universal Waste inspection activity.

Cal/EPA and DTSC Response: Per the evaluation findings, the CUPA is exceeding the requirement for expending 5% of its hazardous waste resources to the oversight of Universal Waste handlers and silver-only generators. While inspections of these facilities certainly meet the 5% requirement, other activities that can qualify for documentation include training, information dissemination, and other mechanisms mentioned on page 2 of the May 8, 2001 CalCUPA Forum memo located at: <http://www.calcupa.net/programs/hazwaste/cesqissue.pdf>. Cal/EPA and DTSC feel the CUPA is on track for meeting the May 15, 2008 deadline for formally documenting this.

CUPA Corrective Action, (Update 2): Complete. We have created SWEEPS program element codes to track universal waste and silver-only generator activities. Effective immediately, staff will document time spent in these program areas in their Daily Activity Reports.

Cal/EPA and DTSC Response: Cal/EPA and DTSC appreciate the CUPA's effort to correct this deficiency. Please submit one page of the SWEEPS tracking system that displays tracking for universal waste and silver-only generator activities.